

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JEFFREY ALLEN ROETGER,

Petitioner,

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RON HAYNES,

Respondent.

CASE NO. 3:18-CV-05870-RBL-DWC

ORDER DENYING MOTION FOR APPOINTED COUNSEL

The District Court has referred this action filed under 28 U.S.C. § 2254 to United States Magistrate Judge David W. Christel. Currently pending in this action is Petitioner Jeffrey Allen Roetger's Motion for Appointment of Counsel Pursuant to 2254 U.S.C.A. § 3006A(a)(2)(B).

Dkt. 11

There is no right appointed counsel in cases brought under 28 U.S.C. § 2254 unless an evidentiary hearing is required or such appointment is necessary for the effective utilization of discovery procedures. *See McCleskey v. Zant*, 499 U.S. 467, 495 (1991); *United States v. Duarte-Higareda*, 68 F.3d 369, 370 (9th Cir. 1995); *United States v. Angelone*, 894 F.2d 1129, 1130 (9th Cir. 1990); *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983); Rules Governing

1 Section 2254 Cases in the United States District Courts 6(a) and 8(c). The Court may appoint
2 counsel “at any stage of the case if the interest of justice so require.” *Weygandt*, 718 F.2d at 954.
3 In deciding whether to appoint counsel, the Court “must evaluate the likelihood of success on
4 the merits as well as the ability of the petitioner to articulate his claims *pro se* in light of the
5 complexity of the legal issues involved.” *Id.*

6 At this time, the Court has ordered the Clerk to serve the Petition; however, an answer
7 has not been filed. Therefore, the Court does not find good cause for granting leave to conduct
8 discovery and has not determined an evidentiary hearing will be required. *See* Rules Governing
9 Section 2254 Cases in the United States District Courts 6(a) and 8(c). Furthermore, Petitioner
10 effectively articulated his grounds for relief raised in the Petition, the grounds are not factually
11 or legally complex, and it is difficult to determine the likelihood of success on the merits without
12 an answer and the state court record. *See* Dkt. 5, 12. Thus, Petitioner has not shown the interests
13 of justice require the Court to appoint counsel at this stage in the case.

14 As Petitioner has not shown appointment of counsel is appropriate at this time, the
15 Motion for Counsel (Dkt. 11) is denied without prejudice.

16 Dated this 14th day of February, 2019.

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David W. Christel
United States Magistrate Judge